

## Attorney fees

If you think you may need help or advice from a lawyer, you should know that the fees for legal services can be paid for by your county of residence under the following conditions:

1. You must take part in – and complete – mediation. A mediation is “completed” when:
  - A parent and EIO participate and agree to services to include in your IFSP
  - A parent and EIO participate but do not reach agreement.
  - An EIO does not agree to take part in mediation.
  - The mediation meeting has not been held within two weeks of the EIO’s request to the Community Dispute Resolution Center (unless the parent asks for or agrees to an extension).
2. You request an impartial hearing and “substantially prevail” in the outcome. “Substantially prevail” means that the case is decided in your favor on some or most of the important issues in your case.
3. The county was represented by an attorney at the impartial hearing.

support their views. Parents may bring a friend, another parent, an advocate, or an attorney to the impartial hearing. The hearing officer must reach a decision in 30 days. The hearing officer’s decision is final. You or the Early Intervention Official do have the right to ask for a judicial review of the hearing officer’s decision.

## If you need to request an impartial hearing

You must write to the Commissioner of Health. (For a sample letter, see page 37.)

You can ask for an impartial hearing at any time. If your complaint is about your child’s eligibility, however, your request must be made within six months of the date your child was found ineligible for services.

Like mediation, an impartial hearing must be held at no cost to you.

## If you request an impartial hearing

The Commissioner will assign an administrative law judge to act as a hearing officer.

You will get a written notice of the hearing that will:

- Give the date, time, and place of the hearing.
- Present the issues that will be examined at the hearing.
- Explain how the hearing will be conducted.
- Tell you that you can bring any person of your choice to the hearing, which can include an advocate or an attorney.
- Advise you that interpreter services for the deaf will be provided, if needed.
- Tell you about your rights at the hearing.

Your Early Intervention Official must tell you if he or she plans to use an attorney at the hearing. You must be told of this within three working days of the date your Early Intervention Official is notified of your hearing.



This will give you a chance to get an attorney if you think you need one. Your service coordinator can help you find legal and advocacy services in your area.

### If you go to an impartial hearing

The hearing officer must conduct the hearing in a fair manner. The hearing officer has the power to make decisions about requests made by either you or the Early Intervention Official.

You can be represented by an attorney or persons with special knowledge or training about children eligible for early intervention services. You can also have other supportive persons—relatives or friends—come with you to the hearing.

Impartial hearings are private unless parents request a public hearing.

### When the hearing is completed

The hearing officer will make the final decision on your case. You will get a copy of the hearing officer's decision in writing. Your service coordinator and Early Intervention Official will also get a written

copy of the decision, as will the Commissioner of Health.

Your Early Intervention Official or service coordinator will make certain that your IFSP is changed, based on the hearing officer's decision. Your IFSP must be changed within five working days of the written or oral decision of the hearing officer, whichever is sooner.

### Handling other problems... making a systems complaint

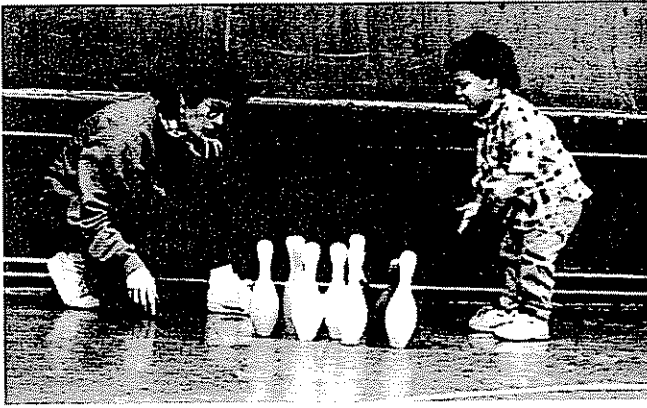
Sometimes, parents have problems with *how* the Early Intervention Program is working. If you believe that your Early Intervention Official or service provider is not doing his or her job under the law, you can file a *systems complaint*. Some examples of problems include:

- Not having an IFSP completed within 45 days of a child's referral to the Early Intervention Official.
- Not having services delivered on time.
- Not getting the services listed in your IFSP.
- Giving services to a child when a parent hasn't given permission.
- Receiving services in places where there are health or safety concerns.

To file a systems complaint, you must write to the New York State Department of Health (see the sample letter on page 38). You may also make a complaint by telephone or in person.

The Department of Health must investigate your complaint. If you make a complaint to the Department of Health:

- You will be contacted by Department of Health staff.
- You will be told how your complaint will be investigated. This may include interviewing you, any person named in the complaint, and others who may have helpful information about the complaint.



- You will be told how you can appeal the findings of the investigation to the U.S. Department of Education if you disagree with the results.
- Any information that could identify you will be kept private, unless you consent to having it shared.

The Department of Health must finish its investigation within 60 days from the time it gets the complaint. You will receive a written response to your complaint within 70 days.

This response will provide findings of the investigation. It will specify any actions that must be taken. The Department of Health is responsible for ensuring that all steps to correct the problem are taken.





# What Else Should Parents Know About the Program?

The New York State Early Intervention Program is part of the national Early Intervention Program created by Congress in 1986 under the Individuals with Disabilities Education Act (IDEA). IDEA is the federal law that also gives all children and youth ages 3 to 21 years the right to a free, appropriate public education.

In 1992, the New York State Legislature created the State Early Intervention Program in Article 25 of the Public Health Law. The New York State Public Health Law gives all eligible children under three years of age the right to receive early intervention services in their Individualized Family Service Plans. The Public Health Law also ensures that:

- New York State's Early Intervention Program meets all the federal standards for early intervention programs.
- Parents have due process rights that apply to their child's early intervention services.



## What are the Department of Health's responsibilities?

Some of the main responsibilities of the Department of Health, as lead agency, include:

- Administering and monitoring the statewide Early Intervention Program.
- Administering the statewide child find and public awareness system.
- Providing training and technical assistance to everyone involved in the Early Intervention Program.
- Keeping an updated statewide central directory of early intervention services, resources, and experts.
- Implementing a system of payments for early intervention services.
- Safeguarding parent rights under the Early Intervention Program.

## What is the Early Intervention Coordinating Council?

The Early Intervention Coordinating Council (EICC) is an advisory council appointed by the governor to provide advice and assistance about the Early Intervention Program to the Department of Health. The EICC has 27 members, including:

- Five parents of children up to 13 years old with disabilities.
- Five providers of early intervention services.
- Two Early Intervention Officials.
- Two members of the Legislature.
- Commissioners, or their representatives, of the following state agencies: Department of Health, State Education Department, Office of Mental Retardation and Developmental Disabilities, Office of Mental Health, and, the Office of Alcoholism and Substance Abuse Services.
- The superintendent of insurance.
- One person involved in the training of early intervention professionals.
- Six persons appointed by the governor.

Twelve of these members, including four parents, are recommended to the governor by the leaders of the New York State Senate and Assembly.

The Early Intervention Coordinating Council is a very important part of the Early Intervention Program. All meetings of the EICC are open to the public. The EICC meets at least four times a year. For more information about the Early Intervention Coordinating Council, contact the New York State Department of Health, Bureau of Early Intervention, at (518) 473-7016.



## What is a Local Early Intervention Coordinating Council?

Your county has a Local Early Intervention Coordinating Council (LEICC) made up of parents and professionals. The LEICC advises the Early Intervention Official about local early intervention issues such as gaps in services. LEICC meetings are a way to help you meet other parents and to learn more about the Early Intervention Program in your area.

Ask your service coordinator, or Early Intervention Official, for more information about your Local Early Intervention Coordinating Council. LEICC meetings are public, open meetings. Ask for the meeting dates, or ask how you can become a member.

We hope this *Parent's Guide* helps you and your family as you navigate the Early Intervention Program!

# Additional Information and Resources

## **Early Childhood Direction Centers**

There are 15 Early Childhood Direction Centers statewide, funded by the New York State Education Department, that provide information about programs and services for young children, ages birth through five, who have physical, mental, or emotional disabilities. These centers help families obtain services for their children.

[www.vesid.nysed.gov/specialed/transition/whocan.htm](http://www.vesid.nysed.gov/specialed/transition/whocan.htm)

## **Advocacy Services**

The New York State Commission on Quality of Care for the Mentally Disabled provides a full range of advocacy services for persons with disabilities and administers contracts with a statewide network of legal and advocacy services.

[www.cqc.state.ny.us](http://www.cqc.state.ny.us)

## **Parent to Parent of New York State**

This is a parent-run organization, with nine offices statewide, that brings parents of children with disabilities together with other parents who have children with the same or similar disabilities. Parents can discuss similar problems, successes, share information, and provide each other with support.

[www.parenttoparentnys.org](http://www.parenttoparentnys.org)

## **Parent Training and Information Centers**

There are four centers staffed by experienced parents and professionals who provide information and training to families with children with disabilities, professionals working with families, and members of the community.

[www.taalliance.org/PTIs.htm](http://www.taalliance.org/PTIs.htm)

[www.advocacycenter.com](http://www.advocacycenter.com)

[www.advocatesforchildren.org](http://www.advocatesforchildren.org)

[www.resourcesnyc.org](http://www.resourcesnyc.org)

## How to Refer Your Child

(Insert date)

(Insert Official's Name)  
(Street Address)  
(City/State/Zip Code)

Dear (insert name of Early Intervention Official):

I would like to refer my child, (child's name), to the Early Intervention Program. My child is (age of child) and appears to have problems in his/her development. I understand that I will be contacted by a service coordinator who will explain the program to me and can help me choose an evaluator from a list that will be provided to me. I also understand that *A Parent's Guide to the Early Intervention Program* will be provided to me.

The best time to reach me is on (insert days and times).

Sincerely,

(Insert Name)  
(Street Address)  
(City/State/Zip Code)  
(County)  
(Area Code/Phone #)

## How to Ask to Review Your Child's Records

(Insert date)

(Insert Official's Name)  
(Street Address)  
(City/State/Zip Code)

Dear (Early Intervention Official/Service Provider/Service Coordinator/Evaluator):

I would like to review the records of my child, (child's name), who is receiving early intervention services from (name/s of service providers).

I understand that if I have any questions I can have information in the record explained to me, and have someone I select review the records for me.

The best time to reach me is on (insert days and times).

Sincerely,

(Insert Name)  
(Street Address)  
(City/State/Zip Code)  
(County)  
(Area Code/Phone #)

## How to Request Mediation

(Insert date)

(Insert Official's Name)  
(Street Address)  
(City/State/Zip Code)

Dear (insert name of Early Intervention Official):

I would like to request mediation. I am concerned about the early intervention services that my child, (insert child's name) is receiving or should be receiving. I hope you will agree to this request. If so, I understand that someone will contact me to make arrangements for mediation. The best time to reach me is on (insert days and times).

Sincerely,

(Insert Name)  
(Street Address)  
(City/State/Zip Code)  
(County)  
(Area Code/Phone #)

## How to Request an Impartial Hearing

(Insert date)

Commissioner of Health  
NYS Department of Health  
Corning Tower Building  
Empire State Plaza  
Albany, New York 12237

Dear Commissioner (commissioner's name):

I would like to request an impartial hearing for my child, (child's name), regarding early intervention services. I am having a problem with (state the problem).

The best time to reach me to arrange for a reasonably convenient time, place, and date for the hearing is on (insert days and times).

Sincerely,

(Insert Name)  
(Street Address)  
(City/State/Zip Code)  
(County)  
(Area Code/Phone #)



## How to Make a Systems Complaint

(Insert date)

Director, Bureau of Early Intervention  
NYS Department of Health  
Corning Tower Building  
Empire State Plaza  
Albany, New York 12237

Dear Director:

I would like to file a complaint because I believe that (name and address of person/agency) is/are not performing their work as the law requires. I would like the Department to investigate the following actions: (statement of charges)

I understand that my complaint will be investigated within 60 days and that I may be interviewed and will receive a copy of the final report.

The best time to reach me is on (insert days and times).

Sincerely,

(Insert Name)  
(Street Address)  
(City/State/Zip Code)  
(County)  
(Area Code/Phone #)

# Notes

# Notes



*The New York State Early Intervention Program does not discriminate on the basis of handicap in admission or access to, or treatment or employment in, its programs and activities.*

*If you feel you have been discriminated against in admission or access to, or treatment or employment in, the New York State Early Intervention Program you may, in addition to all other rights and remedies, contact: Bureau of Early Intervention, New York State Department of Health, Room 287, Corning Tower, Empire State Plaza, Albany, NY 12237-0660.*



State of New York  
George E. Pataki, Governor

New York State Department of Health  
Antonia C. Novello, M.D., M.P.H., Dr.P.H., Commissioner